

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

VS.

FRANCISCO ROSALES-HERNANDEZ,

Defendant.

2:18-cr-00304-RCJ-VCF

ORDER

A grand jury of this District has indicted Defendant Francisco Rosales-Hernandez of reentry after deportation under 8 U.S.C. § 1326. Defendant has asked the Court to dismiss the indictment for improper venue, because he first came to the attention of the immigration authorities in California. *See United States v. Hernandez*, 189 F.3d 785, 791 (9th Cir. 1999). The Government has responded not by disputing the law or the facts but by filing its own motion, asking the Court to dismiss the Indictment without prejudice. To the extent the motions can be granted to request different remedies, i.e., dismissal with versus without prejudice, the Court grants the Government's motion. *See United States v. Ruelas-Arreguin*, 219 F.3d 1056, 1060 n.1 (9th Cir. 2000) ("When venue has been improperly laid in a district, the district court should either")

1 transfer the case to the correct venue upon the defendant's request, or, in the absence of such a
2 request, dismiss the indictment *without prejudice.*" (citations omitted; emphasis added)).

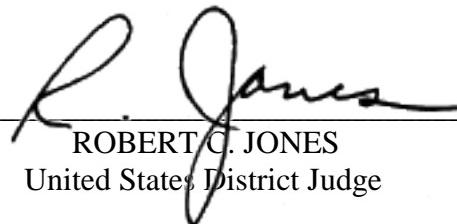
3 **CONCLUSION**

4 IT IS HEREBY ORDERED that the Motion to Dismiss Indictment Without Prejudice
5 (ECF No. 18) is GRANTED, the Motion to Dismiss Indictment (ECF No. 17) is GRANTED IN
6 PART and DENIED IN PART, and the Indictment (ECF No. 1) is DISMISSED, without
7 prejudice.

8 IT IS FURTHER ORDERED that the Clerk shall close the case.

9 IT IS SO ORDERED.

10 Dated this **13th day of November, 2018.**

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12 ROBERT C. JONES
United States District Judge

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